

**FARAD CONTINUATION SHEET.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.**

WRIT PETITION No.6641 OF 2006.

Office Notes,Office	:	Court or Judge's Order.
Memorandum of Coram	:	
apperance,Court's	:	
Orders & Directions	:	
and Registrar's	:	
Order.	:	

Mr. C.K. Tripathi, Advocate for the
Petitioner.

Mr. A.G. Toraskar, Advocate for the
Respondents.

CORAM:R.M.S.KHANDEPARKAR,J.

DATED:1ST DECEMBER,2006.

1. Heard.

2. The petitioner challenges order dated 7th August, 2006 passed by the Trial Court rejecting the application for withdrawal of the amount deposited by the respondent-tenant towards permitted increases and towards arrears of rent. The contention on behalf of the petitioner is that even though the Trial Court has answered the points for determination in the affirmative, ultimately the Trial Court has rejected

the application inspite of the fact that there is no dispute sought to be raised by the respondents that the petitioner has not raised dispute that the amount deposited is not towards the permitted increases or the arrears of rent.

3. A perusal of the impugned order discloses that the Trial Court has arrived at a finding about arrears of property taxes towards Corporation in relation to the property in question amounting to Rs.3,06,776/- and even has referred to the correspondence between the Corporation and the respondents in that regard. In other words, in order to safeguard the interest of the public money due and payable to the Corporation, the Trial Court has rejected the application of the petitioner for withdrawal of the amount deposited by the respondent. It is not the case of the petitioner that all the taxes in relation to the building in question payable to the Corporation have been cleared. In these circumstances,

no fault can be found with the discretion exercised by the Trial Court in rejecting the application of the petitioner for withdrawal of the amount. Merely because the respondents have not disputed that the rent deposited is towards the arrears of rent or towards permitted increases that itself would not entitle the petitioner to withdraw the amount, unless it is disclosed that the amount due towards payment of tax which is public money, has been cleared by the petitioner. In the circumstances, I do not find any justification for interference in the impugned order in exercise of jurisdiction under Article 227 of the Constitution. Hence the petition fails and is rejected.

[R.M.S.KHANDEPARKAR,J.]